

**HAMPTON CONSERVATION COMMISSION PUBLIC HEARING  
SEPTEMBER 23, 2014  
MINUTES**

**PRESENT:**

Jay Diener, Chair  
Peter Tilton, Jr., Vice Chair  
Barbara Renaud, Clerk  
Diane Shaw  
Sharon Raymond  
Gordon Vinther  
Nathan Page, Alternate

Also Present: Rayann Dionne, Conservation Coordinator  
Pat Swank, Alternate – Not voting  
Dan O'Connor, Alternate – Not voting

**CALL TO ORDER:**

The meeting was called to order at 7:00 p.m. by Chairman, Jay Diener, at the Town Hall Selectman's Meeting Room

**CONSIDERATION OF MINUTES:**

**MOTION: Mr. Tilton moved to approve the August 26, 2014 minutes, as edited**

**SECOND: Ms. Shaw**

**VOTE: 6 in favor, 1 abstain (Ms. Renaud)**

**APPOINTMENTS:**

- 1. Esker Road – Map 208, lot 50. Review most recent wetland delineation and determine if a Special Permit is necessary for the installation of a porous paved driveway with a partial retaining wall.  
Present were: Jim Gove, Gove Environmental Services; Gregory Howard, North Country Soil Services; James Proepkoff, Wetland Consulting Services; and, Attorney Craig Solomon representing Ms. Remick.**

Mr. Diener said those representing Ms. Remick will assist the Commission in determining if a Special Permit is needed for this project. It was noted that Mr. Gove reported no wetlands, hydric soils, or poorly drained soils which is in conflict with the 2010 investigation by Michael Cuomo, Soil Scientist.

Mr. Gove stated that he took Mr. Cuomo's 2010 work and accepted it; however, Mr. Gove had not yet seen the site. During a subsequent inspection, he dug three holes and determined the soil is non-hydric and is classified as somewhat poorly drained. He further stated he did not find poorly drained soil in any of the three holes. This information was provided to Mr. Solomon who stated, in turn, he hired two other evaluators because Ms. Remick is leaving for Florida and wanted to get the information to the Commission as soon as possible.

Mr. Howard stated he is based out of Ossipee NH with North Country Soil Services. He conducted an investigation on September 16, 2014. He said he found a damaged site maintained by mowing regularly, and therefore removed the consideration of vegetation. This, he said, became a soils and hydrology investigation. The results in the swale confirmed that soils are somewhat poorly drained and not hydric.

**HAMPTON CONSERVATION COMMISSION PUBLIC HEARING  
SEPTEMBER 23, 2014  
MINUTES**

Mr. Proepkoff, Wetland Consulting Services, stated he was called in at the last minute to look at the area in question. He conducted his investigation on September 18, 2014, and noted that there had been a lot of test holes dug. He read other reports on this property and agree with the findings that the soils in the swale are somewhat poorly drained, but not poorly drained. He shared photographs showing various types of wetlands as well as provided a photo of the swale/ditch below Esker Road. He also looked for water sources, noting that the swale extends across the neighbor's yard and that areas had been mowed. He stated he did not find oxidized rhiesophere and determined that the soils in the swale would be in the somewhat poorly drained category. He also pointed out various color shades of soils.

Mr. Page stated that he has seen the swale full of water for multiple days; that someone created the swale; and, it was farm land at one time.

Mr. Tilton said he is under the impression that the water flows out of the culvert into the swale. Mr. Proepkoff said he did not walk into the swale. Further, Mr. Proepkoff stated that readings could be taken at the beginning of the growing season and checked each day to see the water table; however, this is an unwarranted exercise as three scientists have agreed the soil is somewhat poorly drained.

Mr. Vinther questioned the water table with respect to soil, and Mr. Proepkoff said that to be a wetland, one must see soil saturation at 12 inches for consecutive days.

Mr. Howard commented on the criteria that was designed by the Army Corps of Engineers and stated that when zeroing in on soils, specific criteria has been developed. Some years, soils might meet the criteria, some years, might not. He also added that soil color criteria are important. He stated that soil conditions at this site were probably better before the swale was put in.

Mr. Tilton questioned whether there is an overriding authority of the two different standards, and is there a question in the State of NH saying one should be used vs the other. Mr. Diener stated that he has never heard anything that prohibits using in-state standards. Mr Howard reiterated that the Army Corps has established standards and in NH, it means that the state criteria has to match federal criteria. Mr. Diener noted that there is no Town criteria. Mrs. Dionne said there is a definition, but it does state that it is based on federal or state criteria.

Mr. Solomon stated that what drives the new standards is science and the experience of the soil scientists, and questioned which standard is better for the Town of Hampton to use.

Mr. Gove stated it may be worthwhile to talk to Mr Cuomo regarding the 2010 inspection.

Ms. Raymond commented that since it all comes down to soils, we should be looking to the soil scientists. And, if borderline, it can go either way. Mrs. Dionne questioned if Mr. Cuomo went out today, would he find the same conclusions he reached in 2010.

Mr. Diener stated that this is not a public hearing; therefore, would not be open to comment. The Commission is making a determination of whether or not a Special Permit is required.

Ms. Raymond questioned why the applicant came in with three other opinions, and asked why Mr. Cuomo was not present this evening. Mr. Solomon stated that the reason Mr. Cuomo was not contacted after the first reports is that he had been made aware the Commission had the ability to request an independent evaluation if there was a conflict, and he was trying to provide the opportunity for an independent third evaluation. Further, he would not be afraid of having Mr. Cuomo look again. Mr. Diener pointed out that the Commission did not have the authority to contact Mr. Cuomo as he is the original evaluator for the property.

**HAMPTON CONSERVATION COMMISSION PUBLIC HEARING  
SEPTEMBER 23, 2014  
MINUTES**

Mr Tilton stated that he would like to find out Mr. Cuomo's current opinion using today's tools and whether his original opinion has shifted.

**MOTION:** Mr. Tilton moved that the Commission request additional information from the applicant including having Mr. Cuomo investigate the site using the current standards being used today and returning to the Commission as an appointment with Mr Cuomo's test results. Mr. Page added that this is not intended to take the place of a further independent delineation if the Commission felt that was appropriate.

**SECOND:** Mr. Page

**VOTE:** 6 in Favor 1 abstain (Mr. Diener)

2. **500 Exeter Road. Jamie Murphy. Review proposed restoration plan to address the addition of fill, regarding, and creation of additional driveway space within the 50' buffer.**

No representative was present for the appointment. See Mrs. Dionne's comments and discussion on page 7.

**NEW APPLICATIONS:**

1. **Batchelder Pond, Lucas Sexton – pursuing Eagle Scout Project. Reconstruct the deteriorating bridge which crosses a small stream that feeds into Batchelder Pond.**

Mr. Sexton, Troop 117, was present and spoke to this project which is being proposed in conjunction with his pursuit of his Eagle Scout badge. He explained the bridge will include a boardwalk and ramps to access the trails. The only impact would be that he will have to put in 4x4 posts with cement bases. The bases will be one inch into the ground to hold the bridge. He stated that, when digging, he will not go into the river bed and will be on dry land only. This he stated, will impact the buffer range; however, he will place the dirt on a tarp and will make sure the dirt goes back or will put excess back into the trail. All the dirt will stay there. Scout Troop members will be using shovels to dig the necessary holes. Mr. Sexton also stated the bridge will be ADA accessible.

Mr. Page stated that Mr. Sexton has incorporated the suggestions by the Commission while on the site walk.

Mr. Tilton asked if there would be need to have cables in the ground in case of high water. Mr. Sexton said he is still working on the design and the bridge will be higher than the other, as well as being moved five feet to the right. Also, some of the materials will be reused and if the boards do not work out, rocks will be used.

Ms. Renaud said she is pleased with this project. Mrs. Dionne noted that there will be no objection to the reuse of the telephone poles.

**PUBLIC COMMENT.** There was no public comment.

**MOTION:** Mr. Page moved to recommend the Planning Board approve the Special Permit Application of Lucas Sexton, Scout Troop 177, to reconstruct the deteriorating bridge which crosses a small stream that feeds into Batchelder Pond. Further, to waive the Special Permit fee of \$100. Abutters will be notified prior to the Planning Board Hearing and the abutter notice costs are to be paid by the applicant.

**SECOND:** Mr. Tilton

**VOTE:** 7 in favor

**HAMPTON CONSERVATION COMMISSION PUBLIC HEARING  
SEPTEMBER 23, 2014  
MINUTES**

- 2. 10 Lyons St. John and Katherine Catalogna. Install grass pave driveway (40' x 10') and turn around area (24' x 24'). This is a NHDES Standard Dredge and Fill permit and Town Special Permit.**

**Present were: Mr and Mrs. Catalogna.** The Catalognas explained that there is no driveway on the property and the road is private with no parking allowed. A portion of the neighbor's driveway is on their property and they would like to maintain the asphalt while adding a paved section from the street to the buffer edge, then adding 40 feet of grass pave and a 24' x 24' grass pave a turnaround in the rear. They would take out the part that encroaches by the neighbor and 140 sf will be removed from the buffer while putting in 800 sf of grass pave.

Mrs. Dionne stated that the Catalognas have been very cooperative, and she explained how narrow it is between the Catalogna's house and their neighbor. However, she does question the turn-around at the rear.

Mr. Page questioned if there is any consideration of using the space between the house and the proposed turn around. Mr. Catalogna stated that they may be able to shift the turn around a few feet closer, but snow removal and snow storage would be a concern. They would like to keep 12-15 feet away from the house, he said.

Ms. Renaud asked if there is another material they could use outside of the buffer to provide stormwater treatment before reaching the buffer. She noted that storm water would run down the drive to the marsh without having the opportunity to remove contaminants. Mrs. Catalogna said they are trying to tie into what is there and owned by the neighbor.

Ms. Renaud also spoke to her concern of contaminants coming from vehicles parked in the buffer. Mr. Vinther noted that if a permit is granted there could be the chance that a car would be parked there for a very long time.

Mr. Catalogna said that if the neighbor parks on the side and does not pull all the way to the back, it would be difficult to park side by side.

Mr. O'Connor said there would be a lot of permanent impact to the buffer for the convenience of a parking space.

Mr. Page stated he is opposed to take up grass for parking, and he cannot endorse putting parking spaces in the 50 foot buffer when there is space available outside the buffer.

Mr. Diener said there is enough depth to park 2 cars before going into the buffer and he is not in favor of the turn-around.

**PUBLIC COMMENT: No public comment**

**MOTION: Mr. Tilton moved to oppose the NHDES Standard Dredge and Fill Application for the property located at 10 Lyons St. based on the plan to install a grass paved parking area as there is adequate parking outside the buffer.**

**SECOND: Ms. Renaud**

**VOTE: 6 in Favor, 1 Abstain (Mr. Diener)**

**MOTION: Ms. Renaud moved not to recommend the Planning Board approve the Town Special Permit for the property located at 10 Lyons St. based on the plan to install a grass paved parking area as there is adequate parking outside the buffer.**

**SECOND: Mr. Page**

**VOTE: 6 in Favor, 1 abstain (Mr. Diener)**

**HAMPTON CONSERVATION COMMISSION PUBLIC HEARING  
SEPTEMBER 23, 2014  
MINUTES**

- 3. 1052 Ocean Blvd. David A. Pope. Reset fallen stones and add some additional stones to fill voids in existing revetment. Request permission to adjust stones when necessary during the permit period. This is a NHDES Minimum Expedited Permit and Town Special Permit Application.**

**Present were: David Pope and Suzanne Pope.**

Mr. Pope stated this permit is to allow for the maintenance of stones as they shift down the revetment toward the beach. There are voids they would like to fill with new rocks. This is not a reconstruction, but a maintenance issue. The footprint will not change. He explained they are within 100 feet of the ocean and the permit would allow repair of the compromised, existing seawall. This is the least adverse impact to the area in that the work will stay in the existing footprint

Mr. Page noted that the plan did not show the temporary impact area and he wants to make sure the walls line up. He noted the property has a poured concrete set of stairs that can be used as a benchmark.

Ms. Renaud wanted to confirm this was a repair only with no intention to do more work. Mrs. Dionne said that the contractor has done a lot of work in this area of the beach and she requests that the contractor contact her so she can point out the rocks to be removed. She will confirm this with the contractor and will take before and after photographs to document the work. Ms. Shaw reiterated that photo documentation is important.

Mrs. Dionne expressed a concern that the rocks used to fill the voids not be too small. The Commission agreed they should be at least 3 ft in diameter.

Mr. Pope stated it would take 2 ½ hours to do the work at low tide.

It was pointed out that the contractor will be on Town land, so it is necessary to contact the Board of Selectmen who will give the permit to traverse over Town land following the approval of a Special Permit and NHDES Wetland permits.

**PUBLIC COMMENT. No public comment**

**MOTION: Ms. Renaud moved not to oppose the signing of the plan for the NHDES Standard Dredge and Fill Application for repair of the sea wall for the property located at 1052 Ocean Blvd.**

**(SECOND: Mr. Tilton**

**VOTE: 6 in Favor, 1 Abstain (Mr. Diener)**

**MOTION: Ms. Renaud moved to recommend the Planning Board approve the Town Special Permit for the resetting of fallen stone and addition of additional stones for the seawall located at 1052 Ocean Boulevard with the stipulation that the contractor will meet with the Conservation Coordinator in order for her to explain process and procedures. Further, the contractor will meet with the Coordinator prior to work starting and after work completed. The work will be documented with photographs and no stones will be smaller than three feet.**

**SECOND: Mr. Page**

**VOTE: 6 in Favor 1 abstain**

**PLANNING BOARD REFERRAL:**

**Mr Denier recused himself.**

**Mr Tilton took the Chair.**

**HAMPTON CONSERVATION COMMISSION PUBLIC HEARING  
SEPTEMBER 23, 2014  
MINUTES**

**1. 86 Woodland Rd RK Dolla, LLC. Agent – Jones and Beach Engineering, 5 lot subdivision with a wetland road crossing. Discuss proposed wetland Mitigation options.**

Present were: Joe Coronati, Jones and Beach, and applicant Mr. Dockham.

Mrs. Dionne explained that the Planning Board requested the applicant to come back before the Conservation Commission to discuss conditions that are more acceptable with regard to mitigation options.

Mr. Coronati stated that the applicant is willing to work with the Commission on mitigation and provided the Commission with a letter dated September 17, 2014 to the Planning Board.

Mr. Coronati reported that when the project was designed there was a 50 foot wide road from retaining wall to retaining wall; however, the grading of the roadway was tightened up which reduced the impact within the buffer. The permanent impact has been decreased by 30 sf by using a narrower retaining wall and the temporary impact has been decreased by 650 sf. Overall there is an 8.5% reduction in impact within the buffer from the original submission. The wetland impact has been reduced from 1,600 sf to 1,320 sf by minimizing the road width and associated the box culvert width, which is a 21% reduction. Also, Mr. Coronati also stated that 1,150 square feet of plantings will be added within the buffer on Lot 2.

It was noted during the site walk that there is not much vegetation on the wetland and it has been proposed to apply a wetlands seed mixture as the area will receive greater sunlight when the properties are developed. This will provide an opportunity for more wetlands plants to grow. Mr. Coronati also stated that some trees will be planted at the base of the retaining wall within the wetland buffer to the south side. This will account for approximately 300 sf of plantings. He added that this plan will be presented to the Planning Board.

Ms. Raymond stated that she does not agree that the box culvert is mitigation in that it is not a wetland enhancement. Mrs. Dionne stated the original plan had a culvert pipe and to help reduce the impact, something wider was needed which is why the box culvert was recommended. It is not meant to be used as mitigation because it only helps to reduce, rather than mitigate the proposed impact.

Ms. Raymond stated she is interested in finding a way to lessen the impact to the Wetland Conservation District.

Ms. Shaw stated she is not comfortable with the whole picture including the sealed surface and questioned what would be there after the homes are constructed. With five additional lots and road construction, there will be more sealed surface.

Ms. Swank questioned what the wooded area will look like, will trees be removed, and will the area change once the houses are built. Mr. Coronati stated that trees will be cut for houses and driveways, but the trees in the buffer will not be cut. Trees will be kept between houses and additional landscaping will be done. He pointed out that Lot 5 is over an acre of land.

Mrs. Dionne stated that she would like to see along the top boundary line opposite the road, a 15-20 foot “no cut” wooded area and a vegetative row, with the whole length of the property being left in its natural state. This, she stated is an enhancement.

Ms. Renaud said this is a good start and the plans are better than originally submitted but questions if this is enough. She listened to abutters at a prior meeting who are concerned. Further, lot 4 is tight and a 10 foot “no cut” area is a good idea.

Ms. Raymond said that a “no cut” zone near the edge of the buffer would be mitigating the buffer by buffering the new homes from existing homes. The 10 foot “no cut” would protect what there is left of the buffer.

Mrs. Dionne stated that a 60 foot buffer would be mitigation, with all buffer edges to be planted.

**HAMPTON CONSERVATION COMMISSION PUBLIC HEARING  
SEPTEMBER 23, 2014  
MINUTES**

Mr. Coronati stated there are concerns with increasing the buffer by 10 feet on lots 3 and 5 however, it would work with lots 2 and 4.

Mrs. Dionne stated that the references in the plan should be noted on the Deeds.

Mr. Vinther stated that he is agreeable to a 10 foot addition on the buffer.

Mr. O'Connor questioned the oil tank. Mr. Coronati stated he assumes it is there.

Mr. Tilton stated that he does not consider a box culvert mitigation. It is a good idea, but not mitigation. Mrs. Dionne stated that she is in favor of the box culvert in that it has less of an impact. She also noted that buffer plantings, wetland seeding, other plantings along the road provide a reduction in impact. She also noted that it is important that the Commission makes it clear what is acceptable before going to the Planning Board.

Mr. Tilton stated that the owner of Lot 5 will have headaches because of the various easements and suggested leaving the lot vacant and make four larger house lots. Mr. Coronati said that Lot 5 will remain as is and will have wooded buffers.

Ms. Raymond said she is concerned with Lot 3 which may not get an extended buffer.

**MOTION: Ms. Raymond moved to recommend the Planning Board approve the Town Special Permit with the modifications of the plan as stated in the letter dated September 17, 2014, from Jones and Beach and addressed to the Planning Board, and the plan signed this date and as agreed upon by the applicant with the modifications of the plan which include increased mitigation via an additional buffer beyond the required 50 feet on Lots 2,3,4,5 for the total of which would be approximately the sum of the permanent buffer and wetland impact of 6500 sf. In addition, the buffer is to be planted with trees as identified on the plan as a "no cut" area as agreed to on the subdivision plan. Further, the recorded plan shall be referenced in each of the Deeds.**

**SECOND: Mr. Page**

**VOTE: 6 in favor, 1 recused (Mr. Diener)**

**Mr. Diener returned to the chair.**

**COORDINATOR REPORT:** Mrs. Dionne reported that Mr. Murphy, who was scheduled to appear under Appointments this evening, was not available to attend. This appointment was to review a proposed restoration plan to address the addition of fill, regarding and creation of additional driveway space within the 50' buffer at 500 Exeter Road. She stated a survey plan has not yet been submitted to the Commission.

The Commission reached the consensus that Mr. Murphy should return to the Commission at a future meeting as an Appointment with a survey plan, and the Commission would entertain the additional parking if the fill that has been added is removed. It was agreed more information is needed on this project.

**OLD BUSINESS:**

**a. 2015 Warrant Articles Review.**

Mr. Denier reported the following two articles are included for consideration:

Ice Pond Dam Article – in the amount of \$90,000

Land Acquisition Fund – in the amount of \$10,000

**HAMPTON CONSERVATION COMMISSION PUBLIC HEARING  
SEPTEMBER 23, 2014  
MINUTES**

**Section 2.3 Wetlands Conservation District:**

Mr. Diener and Mrs. Dionne reviewed the Warrant Article dealing with the Wetlands Conservation District. Proposed and updated revisions were provided to the Commission which include:

Section 2.3.1 Purposes; 2.3.2 Definitions and Delineations; 2.3.3 Permitted Uses; 2.3.4, Use Restrictions and Prohibited Uses; 2.3.5, Wetlands Permits; 2.3.6, Disputed Boundaries; 2.3.7 Special Provisions; and, the Appendix.

Discussion was held on 2.3.3 A. 1. The Commission agreed to remove the word “forestry” and substitute “woodlot management”. Further discussion included 2.3.1 E and 2.3.2 Definitions and Delineations, revisions to C 1 and 2 as well as Paragraph D. It is also proposed to revise Section C and C-a in 2.3.7 to eliminate some duplicated language without changing the meaning of the provisions.

It was suggested that 2.3.1 – E. read as follows: Protect wildlife habitat including amphibian and invertebrate breeding habitat (i.e. vernal pools), maintain ecological balance and enhance ecological values.

Following additional discussion on various sections of 2.3.2 Definitions and Delineations as well as 2.3.7 Special Provisions, the Commission agreed to have a work session on Monday, October 6, 2014, 7:00 pm in the Selectmen’s Conference Room in Town Hall. Section 2.3 Wetlands Conservation District will be discussed in more detail.

- b. Open Space Committee : Report in October**
- c. Eco/Green tips: Continued to October**
- d. Green Infrastructure Subcommittee – Update in October**

Ms. Raymond left the meeting at 10: 35 p.m.

**TREASURER’s REPORT: No report this month.**

**CHAIRMAN’s REPORT:**

Mr. Diener stated that the Victory Garden is in need of \$450.00 for start-up costs on the garden expansion project reported at the meeting of July 22, 2014. At that time Ms. Willis said the cost for the fence posts, cement, and use of a tractor would be in the \$300 - \$400 range and they would like to have this work done in October.

**MOTION: On motion of Ms. Renaud, seconded by Mr. Page, the Conservation Commission voted UNANIMOUSLY to reallocate the amount of \$450.00 to the Victory Garden as startup funds for completion of the expansion project to be done in October.**

**ADJOURNMENT:**

**MOTION: It was moved by Mr. Page to adjourn the meeting at 10:50 pm**

**SECOND: Mr. Tilton**

**VOTE: 6 in Favor**

**A REMINDER:**

**There will be a working session of the Commission on MONDAY, October 6, 2014, at 7:00 p.m. Selectmen’s Conference Room, Town Hall.**

**The next Conservation Commission Public Hearing will be held on October 28, 2014**

**Respectively submitted, Anne Marchand, Recorder**